THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

W.P.No.10155 of 2005

Date:24.10.2005

N.Raja Reddy and others

--------PETITIONERS

The Superintending Engineer and others.

---------RESPONDENTS

ORDER:

The petitioners were employed in the erstwhile Andhra Pradesh State Electricity Board. Except petitioner No.5, all have retired from service. When the petitioners were working in the post of Assistant Supervisors, their employer refixed the pay structure, as a result of revision of pay, with effect from 01.04.2001, in such a way that a junior to petitioners 1 to 3, by name Ramulu, and another employee, by name Rangarao, who was junior to petitioners 4 to 6, were drawing higher scale of pay. Similar situation existed in respect of a number of other employees also, giving rise to labour unrest.

The respondents and the unions of their employees have entered into a settlement, dated 31.12.1982. Complaining that the settlement was not honoured, the aggrieved persons approached this Court by filing W.P.No.9772 of 1983. The Writ Petition was disposed of, directing the respondents to re-fix the salary, in such a way that no senior would draw salary less than his junior. When the respondents did not comply with the said directions, C.C.No.127 of 1985 was filed. Ultimately, the respondents extended the benefit of the settlement to almost all the employees, except in scattered cases.

Alleging that the anomalies in their pay scales were not rectified, the petitioners approached the Labour Court-II at Hyderabad, by filing an application under Section 33 (C) (2) of the Industrial Disputes Act, 1947 (for short 'the Act'), which was taken up as M.P.No.5 of 1992. The respondents resisted the same, by taking the plea that the principle of 'equal pay for equal work' has no universal application and that the petitioners were not entitled to any benefit. The Labour Court, in turn, passed an order, dated 02.11.1993, rejecting the plea of the respondents and directing them to extend the benefit of the settlement. The benefits calculated up to 31.03.1986 were directed to be paid.

The respondents filed W.P.No.20963 of 1995 against the order of the Labour Court. The writ petition was dismissed on 29.01.2004. The petitioners contend that the respondents did not extend the benefit subsequent to 31.03.1986, on the ground that the matter is pending in the writ petition and that even after the dismissal of the writ petition, the benefits were not extended.

The respondents filed a counter affidavit disputing their liability. It is alleged that the principle of 'equal pay for equal work' cannot be extended to the petitioners and that the order passed by the Labour Court has since been complied with.

Sri G.Mukunda Reddy, the learned counsel for the petitioners submits that once there was a settlement between the respondents and the unions of their employees, the respondents were under obligation to honour the same. He contends that though there was a valid settlement, to which the respondents are parties, a writ petition and a contempt case had to be filed and that the matter had to be taken before the Labour Court to enforce it. He submits that the respondents have adopted all possible tactics to deny the benefits to the petitioners.

The learned Standing Counsel for the respondents, on the other hand, submits that having chosen to approach the Labour Court for the benefit up to certain

period, the petitioners cannot invoke the remedy under Article 226 of the Constitution of India, for the subsequent period. He contends that the very fact that the benefit of the settlement was extended to several others discloses that the respondents implemented the same.

It is not in dispute that there existed settlement, which provided for removal of anomaly in the pay structure. The causes or reasons for existence of such an anomaly are not the subject matter of the Writ Petition. The fact remains that the obligation of the respondents to honour the settlement was attached finality with the judgment of this Court in W.P.No.9772 of 1983.

The petitioners had to approach the Labour Court by filing a petition under Section 33 (C) (2) of the Act, seeking implementation of the settlement in their cases. Nearly, after six years from the date of filing the petition, the Labour Court upheld the plea of the petitioners and directed payment of the amounts. Keeping the requirement under the relevant provisions, the petitioners had to restrict their claim up to 31.03.1986. They were precluded from making a claim in general terms, in an application under that provision. The order passed by the Labour Court was challenged before this Court and almost after nine years, the Writ Petition came to be dismissed. The petitioners were denied the benefit of the settlement, and the order of the Labour Court, even after the writ petition filed against it was dismissed. In fact, this Court did not approve of the stand taken or the conduct exhibited by the respondents, in the entire episode.

Whatever may have been the justification in not complying with the order passed by the Labour Court or not re-fixing the pay scale, on the sole ground that the writ petition filed by them is pending, the respondents cannot justify their action in this regard, once W.P.No.20693 of 1995 was dismissed and the order passed therein became final. The petitioners were constrained to implead the 3rd respondent, by name Mr.D.Nageswara Rao, Chief General Manager (HRD), as a party to this writ petition, alleging that it was he, who was instrumental in withholding the benefits to the petitioners, even after their

claims were certified and approved by the employer concerned, 1st respondent.

In para 9 of the affidavit, the petitioners made specific allegation against the 3rd respondent. It is rather interesting to note that the 3rd respondent filed a counter affidavit in this case on behalf of respondents 1 and 2 and in reply to para 9, he has only stated that the plea of the petitioners is imaginary. He has not chosen to enter appearance. The conduct of the 3rd respondent, who is a senior and responsible officer, cannot be countenanced. It is on account of the obstructionist approach adopted by him, that both the petitioners and their employer are made to go around the Courts. But for the fact that the dispute was pending even before the 3rd respondent came into picture, this Court would have made him personally liable for the expenditure that was incurred by the petitioners as well as their employer for the entire litigation.

For the foregoing reasons, the Writ Petition is allowed and respondents 1 and 2 are directed to release the benefits, on account of the anomaly in the pay structure, within a period of six (6) weeks from the date of receipt of a copy of this order. It is directed that respondents 1 and 2 shall not channel the file relating to the petitioners to the 3rd respondent and if it emerges that the delay or denial of any benefit is on account of any steps attributable to respondent No.3, it shall be open to the petitioners to bring the same to the notice of this Court through a proper application. In case the amounts are not released to the petitioners within the specified period of six weeks, such amounts would carry interest at the rate of 12% per annum from the date of accrual, till the date of payment. There shall be no order as to costs.

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24.10.2005

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